

TEXAS TRANSPORTATION COMMISSION

HIDALGO County

MINUTE ORDER

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PHARR District

The Texas Department of Transportation (department) and the Hidalgo County Regional Mobility Authority (HCRMA) have been proceeding with the development of projects within the State Highway (SH) 365 corridor in Hidalgo County. As planned, the SH 365 project included the construction of three segments, comprised of both toll and non-toll improvements. Segments 1 and 2 included the construction of toll road improvements from FM 396 (Anzalduas Highway) eastward to FM 3072, approximately 0.9 miles west of FM 2557, and then southward to US 281 (Military Highway). Segment 3, which constitutes US 281 and the Border Safety Inspection Facility (BSIF) Connector, includes the construction of non-toll highway improvements to US 281 (Military Highway) from 0.45 miles east of Spur 600 (Cage Blvd.) to FM 2557 (Stewart Rd.), and construction of non-toll highway improvements called the BSIF Connector from Spur 29 (S. Veterans Drive) to US 281 (Military Highway) below the San Juan Road overpass.

On April 29, 2010, the Texas Transportation Commission (commission), by Minute Order 112250, designated the limits of SH 365 along a new location in Hidalgo County, with the initial limits of the project from FM 1016, 1.7 miles south of US 83, eastward to FM 3072, 0.9 miles west of FM 2557, a distance of approximately 12.73 miles.

On July 26, 2012, the commission, by Minute Order 113199, amended Minute Order 112250 by extending the limits of the SH 365 designation from FM 1016, 1.7 miles south of US 83, eastward to FM 3072, approximately 0.9 miles west of FM 2557, and then southward to US 281 (Military Highway), a distance of approximately 14.31 miles.

The department and the HCRMA, pursuant to former Section 228.0111 of the Transportation Code, agreed on market valuation business terms for the Trade Corridor Connector ("TCC") project, which included Segments 1 and 2 of the SH 365 project, and the HCRMA, in Board Resolution No. 2010-38, adopted on July 27, 2010, exercised its option to develop the project. In Board Resolution No. 2016-73, adopted on May 17, 2016, the HCRMA exercised its option to develop the project pursuant to Texas Transportation Code §373.052, which superseded the HCRMA's exercise of its option to develop the project in Resolution 2010-38. In Board Resolution No. 2020-21, adopted August 25, 2020, the HCRMA reasserted its primacy and exercised its option to develop the 365 Tollway Project, a toll project within the limits of Segments 1 and 2 of the SH 365 project.

The HCRMA is proceeding with plans to construct the 365 Tollway Project. The 365 Tollway Project consists of the construction of a controlled access toll facility from FM 396 (Anzalduas Highway) and extending east and south to US 281, a distance of approximately 12.2 miles. On May 28, 2015, and June 25, 2015, the commission passed Minute Order 112605 and Minute Order 114288, approving a request for financial assistance from HCRMA in an amount up to \$127,935,862 for construction costs associated with Segments 1 and 2 of the SH 365 project.

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On June 30, 2016, in Minute Order 114625, the commission rescinded the state highway system designation of SH 365 from FM 1016, 1.7 miles south of US 83, eastward to FM 3072, approximately 0.9 miles west of FM 2557, and then southward to US 281 (Military Highway), a distance of approximately 14.31 miles.

On October 18, 2016, HCRMA and the department entered into a financial assistance agreement for \$127,935,862 to be used on a reimbursement basis for costs associated with construction for the 365 Tollway Project.

The HCRMA has requested financial assistance in the form of a grant of \$27,000,000 to be used only for the costs of constructing the 365 Tollway Project. The funds for this financial assistance were most recently listed in the addition to the 2021 Unified Transportation Program approved by the commission in December 2020 as Category 10 Coordinated Border Infrastructure funds and Category 11 Rider 11B Border Infrastructure, in the total amount of \$27,000,000 for the 365 Tollway Project.

Transportation Code, §370.301 authorizes the department to provide for or contribute to the payment of costs of the design, financing, construction, operation, or maintenance of a turnpike project by a regional mobility authority (RMA) on terms agreed to by the department and the RMA. Transportation Code, §222.103 authorizes the department to participate, by spending money from any available source, in the acquisition, construction, maintenance, or operation of a toll facility of a public or private entity on terms and conditions established by the commission.

Pursuant to Transportation Code, §222.103, the commission adopted Title 43, Texas Administrative Code, §§27.50-27.58 (toll equity rules) to prescribe conditions for the commission's financing of a toll facility of a public or private entity.

In accordance with §27.53 of the toll equity rules, the HCRMA has submitted a request for \$27,000,000 in additional financial assistance, in the form of a grant, to cover certain costs of constructing the 365 Tollway Project. The HCRMA proposes to expend its own funds to pay actual eligible expenses and seek reimbursement from the department, which will disburse the financial assistance within 30 days of a request from the HCRMA. The information and data required by §27.53 is either contained in the request for financing, is already in the department's possession, or may be waived.

On February 24, 2011, the commission adopted Minute Order 112605, directing that if financial assistance is provided to a public entity under Transportation Code, §222.103 from a statewide funding source: (1) that assistance shall be repaid, or (2) the department shall require the entity to which the assistance is provided to agree to share project revenue with the department, in such amounts and for such period of time as is approved by the commission. These requirements do not apply to financial assistance provided from funds allocated to metropolitan planning organizations or department districts.

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Pursuant to Transportation Code, §372.002, added by Senate Bill 312, Acts of the 85th Legislature, the department may contribute funds as participation in the cost of a project for which repayment is not required if a toll project entity commenced the environmental review process for the project on or before January 1, 2014. HCRMA commenced the environmental review process for the 365 Tollway Project before January 1, 2014.

The commission finds that: (1) the project is consistent with the approved Texas Transportation Plan and the Metropolitan Transportation Plan of the Rio Grande Valley Metropolitan Planning Organization; (2) the project will improve the efficiency of the state's transportation systems; and (3) the project has the potential to expand the availability of funding for transportation projects or reduce direct state costs.


The commission further finds that: (1) providing financial assistance will prudently provide for the protection of public funds; and (2) the project will provide for all reasonable and feasible measures to avoid, minimize, or mitigate adverse environmental impacts.


IT IS THEREFORE DETERMINED AND ORDERED by the commission that the request for financial assistance in the form of a grant submitted by the Hidalgo County Regional Mobility Authority meets the applicable requirements of 43 TAC §§27.53 and 27.54(a) and, in accordance with those provisions, as an exception to the requirements of Minute Order 112605, the commission grants preliminary and final approval of financial assistance in the form of a grant in an amount up to \$27,000,000, to be used only for the costs of constructing the 365 Tollway Project, from FM 396 (Anzalduas Highway) and extending east and south to US 281 (Military Highway) in Hidalgo County.

IT IS FURTHER DETERMINED AND ORDERED that, in accordance with 43 TAC §§27.54 and 27.55, the executive director has negotiated the amount, type, and timing of disbursements of the financial assistance in the form of a grant, and is authorized to negotiate and execute a financial assistance agreement which includes the following terms: (1) the financial assistance will be disbursed on a reimbursement basis and may only be used for construction of the 365 Tollway Project; and (2) if HCRMA fails to issue toll revenue bonds and execute a construction contract on or before May 1, 2022, the financial assistance may not be disbursed and the financial assistance agreement shall be terminated, unless this deadline is extended by the executive director of the department.

Submitted and reviewed by:

Recommended by:

DocuSigned by:

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Director, Project Finance, Debt, and
Strategic Contracts Division

DocuSigned by:

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Executive Director

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